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5 **UNITED STATES DISTRICT COURT**
6 **DISTRICT OF NEVADA**
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8 FIDEL H. PAJARILLO,

9 Plaintiff,

10 v.

11 COUNTRYWIDE HOME LOANS, INC., et
12 al.,

13 Defendants.
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2:09-cv-0078-LDG-GWF

ORDER


15 After the court granted leave, plaintiff filed his second amended complaint (#38) and
16 defendants Countrywide Home Loans, Inc., and Reconstruct Company filed their second motion to
17 dismiss (#40, joinder #44, opposition #45, reply #46). Plaintiff's second amended complaint fails
18 to cure the deficiencies of his original complaint and does not allege cognizable new claims.

19 Plaintiff's opposition to the second motion to dismiss fundamentally ignores the fact that
20 Nevada is a non-judicial foreclosure state. In its previous ruling, the court held that under Nevada
21 law there is no requirement that a trustee or beneficiary have possession of the original note before
22 proceeding with foreclosure. Moreover, plaintiff contractually acknowledged that the interest of
23 the originating lender in the loan could be transferred, and that event does not excuse his financial
24 obligation under the note. Plaintiff's claims regarding securitization of the loan, therefore, lack
25 legal basis.
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1 Plaintiff's claims of breach of contract are insufficient. Plaintiff admits that he defaulted
2 on the loan, and has alleged no contractual failure of defendants. Plaintiff's allegations of fraud
3 and misrepresentation are insufficient as a matter of law. Not only do plaintiff's allegations fail to
4 meet the particularity requirements of Fed. R. Civ. P. 9(b), but considering the rejection of
5 plaintiff's securitization claims, the substance of the fraud and misrepresentation allegations fail to
6 state a claim. Likewise, plaintiff's claims of civil conspiracy, rescission, wrongful foreclosure, and
7 injunctive relief lack legal basis. Finally, the court previously rejected plaintiff's claims alleging
8 Mortgage Electronic Registration Systems, Inc.'s lack of authority to foreclose, and plaintiff fails
9 to support his additional allegations with legal authority to the contrary. Accordingly,

10 THE COURT HEREBY ORDERS that defendants' Countrywide Home Loans, Inc.;
11 Reconstruct Company, and Mortgage Electronic Registration Systems, Inc.'s second motion to
12 dismiss (#40) is GRANTED.

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14 DATED this 28 day of September, 2010.

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17 Lloyd D. George
18 United States District Judge
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